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Current Topics.

Law Reform.

MR. BERTRAM PLUMMER wrote to *The Times* of 15th May, a letter on the general subject of legal reform, drawing attention to the fact that amid the spate of proposals for reform no one except Professor KEETON, in a short article in the *Law Quarterly Review* for April, 1942, had made any suggestions for the reform of our substantive and procedural law. A system of law to be fit for its task, he wrote, must be in a form which is physically readily accessible; intelligible certainly, because, as ignorance of the law is no excuse, ambiguity is inexcusable; conforming to current moral standards, and therefore having the minimum of time-lag; comprehensive, leaving as little as possible in the air; and coherent, being based on clear general principles. Mr. PLUMMER castigated our system of law as falling so far short in the possession of the attributes of a good system, that it might seriously hamper social progress. He suggested that there should be an institution engaged in research on present-day legal problems. The Law Revision Committee, he wrote, was in no sense engaged in research. It considered questions referred to it by an overworked Lord Chancellor, and the reforms made by it since its constitution in 1934 were, while we must be thankful for them, still only small crumbs. No reforms in what might be called "lawyers' law" would be made without being initiated and pressed through by the lawyers themselves, for the subject was too technical for anyone else. Lawyers, though technically well-equipped, did not generally appear to realise the social implications of their subject, and seemed to be unable to see the wood for the trees. While there may be some excuse for the impatience behind this sweeping criticism of lawyers as a class, it should be said in fairness that there are many other reasons why law reform is slow. First, it is not an entirely unmixed evil that the law changes slowly, as rapid changes destroy that very certainty which Mr. PLUMMER postulates as desirable. Secondly, the Law Revision Committee before the war gave more than crumbs in the short few years of its existence as the Law Reform Acts of 1934 and 1935, and the Limitation Act of 1939 showed, and the momentum of its work would have increased had it not been for the war. Lastly, it is not true that lawyers as a class do no work in this field. Outstanding examples to the contrary are the late Mr. Justice LANGTON'S researches into the anomalies of the law of compensation for injuries and his radical proposals (see the *Law Quarterly Review* for January, 1942) for the reform of that considerable branch of the law, some of which have found an echo in the Beveridge proposals, and more recently the work of the Rent Restrictions Committee and the Company Law Amendment Committee. It is not too much to say that there never was a time when lawyers, in common with other classes in the community, were more alive to the need of making the law keep pace with modern developments in our social and economic institutions.

Delegated Legislation.

THOSE who have for some time past been agitating for a greater general measure of control by Parliament in the making of statutory rules and orders, will regard the announcement by the Home Secretary in his reply to the debate on this subject in the Commons on 18th May as a notable victory for democratic methods of government. He said that the Government were most anxious that delegated legislation should be subject to effective Parliamentary check, and, wherever necessary, effective Parliamentary control. The view of the Government and, he thought, of the House generally, was that delegated legislation was necessary and inevitable. One reason was that the amount of legislation that could be got through in a given session was limited and the amount of legislation necessary to get through had increased and was likely to increase. Secondly, regulations enabled a Minister to put right some silly or clumsy administration or injustice quickly. He did not think the House meant that every conceivable form of rule or order should go to the committee, as that would lead to congestion. For the time being it would meet the case that two important classes of regulations and orders should be sent to the committee. The Government proposed that the group which could not be effective unless approved by an affirmative resolution of Parliament and the group which could be the subject of a prayer or a negative resolution should go to a scrutinising committee. If any controversial issue arose on one of the large number of subordinate orders for which there was no provision for Parliament to do anything about them, it could be raised either at question time or on the adjournment, or on some other occasion, if the Government could give time for the purpose. It would be undesirable for the committee to draw the attention of the House to any special regulation unless it had either heard an officer or seen a memorandum from the department concerned. The Speaker was agreeable, if the House so wished, that his counsel, Sir CECIL CARR, should act as legal adviser to the committee. Sir CECIL CARR was editor of the Revised Statutes and editor of Statutory Rules and Orders for 1923 to 1943 and had been counsel to the Speaker and Chairman of the Statute Law Committee since 1943. He made two specific suggestions for consideration as to the terms of reference: (1) Whether the subordinate legislation imposed a charge on the public revenues or contained provisions requiring payments to be made to the Exchequer or any other Government department or local authority or any services to be rendered or prescribed to the amount of any such charge or payment; (2) whether the subordinate legislation was made in pursuance of an enactment containing specific provisions excluding it from challenge in the courts at all times or after the expiry of a specified period. The terms of reference should certainly be such that the committee did not try to do the work of the courts of law. It was not for the committee or Parliament to decide what was the proper legal interpretation of a statute or whether a regulation was within the legal terms of the statute. The Government, Mr. MORRISON said, would bring forward the appropriate motion as early as possible. The debate certainly made it clear that conflicting views are held by members on the degree of delegated legislation and parliamentary control which is necessary. The Government proposals should go far towards satisfying all schools of thought on the subject.

Retail Trade Reinstatement.

A SHORT but important Bill was ordered to be printed on 16th May "to make provision for the reinstatement in their trade or business premises of certain persons who are or have been in the service of the Crown, the Merchant Navy, a Civil Defence Force, or who have been engaged in another trade or industry in consequence of a direction from the Minister of Labour and National Service from a National Service Officer." The Bill provides that where such persons quitted their business premises by reason of war service, and (*a*) the premises are unoccupied, or (*b*) no trade or profession is carried on upon the premises, or (*c*) any trade, business or profession carried on upon the premises is a part or a branch of a trade, business or profession carried on upon the premises and elsewhere, or (*d*) any trade, business or profession is owned or controlled by the owners or controllers of any other trade, business or profession, they should, on discharge from war service, be entitled, on giving one month's notice in writing to the landlord of the premises, to re-enter and retake possession of the premises on the same terms and conditions as those upon which they held the same immediately prior to their entering into war service. Persons who quitted the premises or transferred their goodwill for valuable consideration, and those discharged from war service for misconduct are excluded from the operation of this provision. It will be the occupier's duty to give a war service person all information and assistance necessary to enable him to serve a notice on

the landlord, and the landlord must give the occupier notice of termination forthwith on receipt of a valid notice of termination from a war-service person. Possession may be taken of vacant premises within a month of the notice to the landlord, and if the premises are not in a reasonably fit state of repair and decoration, the local authority must put them into a reasonably fit state at the earliest possible moment. The local authority will have a first charge for this cost on any war damage compensation recovered, and as to the rest will be able to recover from the landlord or landlords in agreed proportions or proportions to be settled by the county court where agreement cannot be reached. The local authority also is to be given duties with regard to finding alternative accommodation and rebuilding premises. Where a war service person has recovered possession he is to be entitled to retain it for five years so long as he makes no default in the terms and conditions of his tenancy. The Bill further provides penalties for default by landlords and occupiers, and provisions for compensation for such default, to be awarded to war-service persons by the county court.

Company Law Amendment.

EVIDENCE given on behalf of the Committee for General Purposes of the Stock Exchange, London, occupied the whole of the 11th February sitting and part of the 14th March sitting of the Company Law Amendment Committee. On the question of restriction on the use of names, the committee doubted whether legislation could provide a better remedy than the discretion of the Registrar. The committee did not recommend the introduction of shares of no par value. With regard to the contents of prospectuses and offers for sale, the committee pointed out that Stock Exchange requirements went beyond the law, but in administering the regulations the committee retained wide powers of discretion and waiver. It was therefore a matter for consideration to what extent they could be embodied in the Companies Act, as the law did not permit flexibility in administration. Certain abuses with regard to directors' interests, the committee stated, might be checked if vendors were required to disclose in prospectuses, offers for sale or statements in lieu of prospectus, the names of the parties concerned and the price paid or agreed to be paid on each occasion that the property to be sold to the company has changed hands, or has been the subject of a contract during the previous ten years. The committee further recommended that standard forms of underwriting should be included in Table A, to compel the main underwriter to guarantee the soundness of sub-underwriters, to make it *ultra vires* for any company to enter into an agreement with underwriters that their liability should cease on the company's accepting applications from the sub-underwriters. With regard to borrowing, the committee held that at least one of the trustees for debenture-holders should be a trust corporation of standing, and it should be distinctly laid down that such a corporation must never be a holder of more than, say, 5 per cent. of the equity of the borrower, and should never be a borrower's banker. On nominee holdings, the committee consider that they generally serve a useful purpose, but in the case of foreign holdings the nominees should be compelled to give information to registrars of companies in every case where the beneficial interest, or, in the case of more than one holder, the majority of the beneficial interest, is that of a non-British subject, and such information should appear on the register. It is also suggested that a beneficial owner with, say, 10 per cent. of the voting power should be compelled to give notice of such ownership to the registrar, and the proposal in the Board of Trade Memorandum for 1942 that there should be a separate register of directors' holdings deserves support. There was also some interesting evidence and proposals concerning interlocking companies, which the committee regarded as a device for avoiding the rule that a company cannot own its own shares. It was suggested that the holding of shares of a parent company by a subsidiary or a sub-subsidiary should be made illegal. On 11th March, Sir DOUGAL ORME MALCOLM, K.C.M.G., gave evidence on the subject of "two-way proxies," and Mr. S. J. PASSMORE also put forward a number of proposals.

Land Charges.

THE Council of The Law Society, it is stated in the April issue of *The Law Society's Gazette*, have been in correspondence with the Chief Registrar of the Land Registry and have been informed that the normal procedure is to issue certificates at the end of the day on which applications are received, except in the case of applications received on Saturdays and Mondays, when the certificates are issued on the following Mondays and Tuesdays, respectively. Delay in the issue of certificates, it is stated, was recently caused by an abnormal incidence of illness among the Registry's staff, coupled with a heavy intake of work at the end of last year, but it has now become possible to revert to the normal procedure, and it is hoped to maintain this in future, with the possible exception of short periods at the usual quarter days. Even at those periods, however, the time taken to issue a certificate will not normally exceed four days. It is therefore thought that no official statement is needed as to the length of time required under existing conditions in the Land Charges Department of the Land Registry for the preparation and dispatch of certificates of official search. The Council reminds members of the Land Charges Rules, 1940, by which the protected period of two days from the date of the Official Certificate of Search, prescribed by s. 4 (2) of the Law of Property (Amendment) Act, 1926, is extended to fourteen days. It has been suggested to the Council, states the *Gazette*, that any difficulty that might otherwise arise from the late receipt of an Official Certificate can be avoided by lodging the application for search from seven to fourteen days before the date fixed for completion. The adoption of this practice, it is stated, would secure both that the Official Certificate was received in time for completion, and that the completion took place within the protected period.

The Poor Man's Valuer.

THE third annual report by the Council of the Poor Man's Valuer Association for London for the year ended 31st March, 1944, shows that all the seventeen branches are functioning regularly in close co-operation with the Citizens' Advice Bureaux and other organisations by whom poor claimants are introduced. Three hundred and forty-eight cases have been dealt with. Of these 223 were dealt with by valuers within the County of London, and 125 by valuers in the branches throughout Greater London. In addition, the Association dealt with a number of cases referred to it by the Welfare Department of the Army. These cases arose out of a meeting, under the chairmanship of Sir CLAUD SCHUSTER, which was held at the House of Lords on the 9th June, 1943, when the Association was represented by the chairman and the honorary secretary. As the outcome of this meeting, the Council of the Association undertook to collaborate with the three service departments by assisting men and women in the services who are experiencing difficulties in connection with houses and property, and who are unable to afford professional assistance. Every case is first investigated by the Welfare Department of the service concerned, and the scheme is available to all personnel up to and including the rank of sergeant and its equivalent. Later in the same month the Association sent a deputation to the Ministry of Health to discuss certain difficulties and delays in connection with the repair of bombed properties, and subsequently the Minister issued a circular to local authorities dealing with the matters which had been raised. At a meeting of the Association in September, 1943, the following resolutions were carried unanimously: (1) It is desirable that Poor Man's Valuer Associations shall continue after the war. (2) It is desirable that the aims and objects of all Poor Man's Valuer Associations shall be the same. (3) It is desirable that the scope of such aims be extended to cover work other than war damage. (4) It is desirable that there shall be some measure of co-operation between the various associations. A guide has been prepared for the use of the staff at Citizens' Advice Bureaux, and copies have been circulated to the associations throughout the country. The work of the Council has covered (*inter alia*) (1) the War Damage Commission's new forms, on which are announced a preliminary classification of the nature of the claim, subject to objection by the claimant; (2) landlord and tenant problems under war conditions; (3) "Chattel" claims settled by poor persons themselves before the passing of the original War Damage Act have been reviewed in the light of the changed basis of assessment; (4) builders' charges, where the builder claims, not necessarily unjustifiably, that the poor person concerned is responsible for paying his account, e.g., damage to small houses where the foundations are suspected to be defective. The splendid work of these associations in London and the provinces is in the best traditions of all the voluntary bodies engaged in helping the poor to enforce their rights.

Recent Decisions.

In *In re Sebag Montefiore; Sebag Montefiore* v. *Alliance Assurance Company, Ltd.*, on 15th May (*The Times*, 16th May), the Court of Appeal (The MASTER OF THE ROLLS and MACKINNON and LUXMOORE, L.JJ.) held, overruling *In re Tredgold* [1943] Ch. 69, that where a testator by a will made before 3rd September, 1939, gave annuities free of income tax, and by a codicil made after that date expressly confirmed his will, the annuities could not be regarded as contained in the codicil, and therefore as made after 3rd September, 1939, and were accordingly governed by s. 25 (1) of the Finance Act, 1941. Therefore as respects payments falling to be made during any year of assessment, the standard rate of tax for which was 10s. in the £, they had effect as if for the stated amount there were substituted an amount equal to twenty twenty-ninths thereof.

In *Green* v. *Palmer*, on 16th May (*The Times*, 17th May), UTHWATT, J., held that a tenancy agreement for six months, with an option of continuing for a further six months on the same terms, was not a perpetually renewable tenancy so as in effect to give a lease for 2,000 years under Sched. 15 of the Law of Property Act, 1922, but the effect was that when renewed at the end of six months, the tenancy could again be renewed on the same terms of one further option only, so that the term was one which, if renewed, could not exceed eighteen months in the whole.

A Conveyancer's Diary.

Disclaimer of Leases in Bankruptcy.

UNDER s. 54 of the Bankruptcy Act, 1914, the trustee has power to disclaim "any part of the property of the bankrupt [which] consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money." Under subs. (2) the effect of disclaimer is "to determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt and his property in or in respect of the property discharged . . . but [disclaimer] shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property . . . from liability affect the rights or liabilities of any other person."

This section is usually thought of as one under which the trustee can get rid of the bankrupt's leaseholds. To do so he must, under subs. (3), have the leave of the court, unless the case falls within r. 276 of the Bankruptcy Rules, 1915. Actually, I should imagine that the exceptions are more numerous than the cases where leave is needed, since the exceptions include not only any case where the bankrupt has not assigned or sub-let or charged the lease, and all cases where the rent and the value are under £20 a year, and all "small" bankruptcies, but also any case where the trustee serves the lessor with notice of his intention, and the lessor does not within seven days give a counter-notice asking for the matter to be brought before the court. The application to the court that is thus made necessary by subs. (3) is one made by the trustee for leave to disclaim. It must not be confused with the application for a vesting order which can be made under subs. (6) by some person, other than the bankrupt or the trustee, who has an interest in the property disclaimed. Under subs. (6), for instance, a mortgagee of a disclaimed leasehold can get the leasehold vested in himself. But I understand that cases fairly often occur in which a person with some such interest, upon being served with a notice under r. 276, asks that the matter shall go to the court. The proper course for such a person is to allow the disclaimer to take effect and then to apply for a vesting order under s. 54 (6). If he goes ahead under subs. (3), which is not the procedure for getting a vesting order, the chances are that he will have to pay the costs of the application.

Subsection (2) concludes with words declaring that the disclaimer is not to affect the rights or liabilities of third parties. Two rather curious cases are relevant with reference to the liability upon a contract of guarantee or of indemnity.

The first of them was *Harding* v. *Preece* (1882), 9 Q.B.D. 281; this case was on s. 23 of the Bankruptcy Act, 1869, which did not contain any express words saving the rights and liabilities of third parties. The question was as to the liability of a person who, upon an assignment of a lease, had covenanted with the assignor, who was the original lessee, to indemnify him against the rent in the event of the assignee failing to pay it. The assignee went bankrupt and his trustee disclaimed all interest in the premises. The lessor then demanded from the lessee rent for a period after the disclaimer; the lessee paid and called for indemnity under the covenant in that behalf. Both members of the Divisional Court held that the contract of indemnity was enforceable. But there was some difference of emphasis and the decision is puzzling. Why did the lessee pay the lessor? It is true that there is privity of contract between the parties to a lease even after the term has been assigned to another; but the lessee's covenant was to pay the rent reserved, that is to say, the rent arising under the lease during the term. But if the lease was surrendered, there was no term and so no rent. On this argument, the lessee need not have paid the lessor, and therefore no question of indemnity should have arisen. Williams, J., did not accept this line of reasoning, but said that the effect of disclaimer was merely to release the bankrupt and his estate and not to work the extinction of the actual term. Substantially, the same point came up again in *Stacey* v. *Hill* [1901] 1 K.B. 660, on s. 55 (2) of the Act of 1883, which was identical with the present subsection and contained words preserving the rights of third parties. In *Stacey* v. *Hill* the contract sued upon was not one of indemnity to an assignor in respect of his liability to a lessor, but was one of guarantee to the lessor himself given by a third party in respect of the obligations of the lessee. The lessee having gone bankrupt, his trustee disclaimed and the lessor sued upon the guarantee. On this occasion the Court of Appeal took the view that the lease was gone and there was nothing to guarantee. Romer, L.J., said that to hold otherwise would not preserve the rights and liabilities of third parties but would change them. The guarantor, as surety, guaranteed payment of rent under a lease; if the plaintiff succeeded, it would mean that the guarantor would be having to pay money, "though there is no rent payable, no lease, and no person in the position of lessee." In my view, this decision would be followed at the present day rather than that in *Harding* v. *Preece*.

Finally, I may mention that s. 54 does not only apply to leases but to "land of any tenure burdened with onerous covenants," or "not readily saleable by reason of its binding the possessor thereof to the performance of any onerous act." It can thus apply to freeholds which fulfil these conditions. Such a case cannot arise very often, but *Re Mercer and Moore's Contract* (1880), 14 Ch. D. 287, is an example. The land in question was freehold subject to a fee farm rent and to various positive and negative covenants in support thereof. About eight years before the sale the person in whom the land had been vested went bankrupt and his trustee disclaimed. Later, the trustee entered into a conveyance of the title, if any, and the vendor's title derived, through several mesne purchasers, from this conveyance. Jessel, M.R., held that such a title could not be forced on a purchaser; the disclaimer was valid and, after it, the trustee had nothing to convey. This decision was on the Act of 1869; the words giving the right to disclaim in such cases were the same as in the present Act, and I conceive that the decision is good authority. Jessel, M.R., seems to have envisaged that the burden of the positive covenants could run with the land, a notion not now tenable. But he also appears to have thought that the negative covenants were capable of being, and were, onerous within the meaning of the Act. This is a distinctly controversial view, but *Re Mercer and Moore* seems to be authority that such covenants can be "onerous."

The remaining question was, what became of the legal estate upon the disclaimer? With a lease the answer is easy enough, viz., that the reversioner's interest is accelerated; the leasehold is wiped out and the freeholder regains his own. But if the bankrupt is a freeholder, what is the position? The Act of 1914 simply says that the rights and liabilities of the bankrupt are to cease. Thus, the bankrupt's fee simple disappears. Under the Act of 1869 it was provided that the property should "revert to the person entitled on the determination of" the bankrupt's interest, a provision not found in the present Act. On the old words Jessel, M.R., held that the fee simple was probably in the Crown, on the ground that "all freehold estate came originally from the Crown and where there is no one entitled to the freehold estate by law it reverts to the Crown." The wording of the subsection is now different, but in my view, the decision of substance would still be the same. As Jessel, M.R., pointed out, the result is inconvenient as there is no easy way to get the legal estate not of the Crown. As things now are, with Sched. A income tax and War Damage Contribution at their present levels, all land obligates its owner to perform onerous duties, and quite a small further duty might well bring a case within this section. For example, a trustee could, I think, disclaim property in respect of which a slum-clearance notice was outstanding, on the ground that the cost of demolition would exceed the site value. A like procedure would, no doubt, be possible in respect of a dangerous structure notice, and if the remarks of Jessel, M.R., as to the effect of negative covenants are to be interpreted seriously, there will be a fair number of cases where disclaimer of freeholds is desirable.

Landlord and Tenant Notebook.

Leave to execute Order for Possession.

SHORTLY after *Butcher* v. *Poole Corporation* [1943] 1 K.B. 48 (C.A.) had been decided, a special article in our issue of 21st November, 1942 (86 SOL. J. 345), concluded with a paragraph beginning: "It is a strange reflection now that county court judges, after making possession orders based on notices to quit, have consistently omitted to carry out the implications of *Smart Bros.* v. *Ross*, as shown by Lord Greene's judgment in *Butcher* v. *Poole Corporation*. Leave to proceed, it now seems, is not required in such cases." The writer proceeded to discuss the special case of "controlled" property, and the two last sentences of the article ran: "Nevertheless it is conceivable that it may be argued in future, in a case where an order for possession is made on the ground of a default by the tenant in addition to the notice to quit, that the leave of the court to enforce such an order for possession is required. Until that question is finally decided, county court judges may continue to give leave to proceed in such cases *ex abundanti cautela*."

Butcher v. *Poole Corporation* was decided under the Courts (Emergency Powers) Act, 1939. It is an equally strange reflection that the amending statutes of 1942 and the consolidation Act of 1943 made little or no attempt to clarify the position; and, as far as my information goes, county court judges are still in the habit of giving leave to proceed to execute orders for possession, both when the property is outside and when it is within the Increase of Rent, etc., Restrictions Act and, in the latter case, both whether the order is made on the ground of non-payment of rent or on some other ground.

Of course, if leave to proceed is not only given but is given unconditionally, all that those concerned for a landlord have to do is to remember to apply for it. But conditions might be imposed, and the applicant who subsequently sought to ignore them on the ground that the whole order was a nullity would at least be reminded that he also sought the order. For these reasons I propose to re-examine the arguments invoked in support of the proposition that leave is necessary, and to suggest that the amending and consolidating Acts, if they have not

directly dealt with the problem, have indirectly provided further support for arguments to the contrary.

Those contending that leave is essential will invoke what are now s. 1, subs. (2) (*a*) (ii) and (iv), and subs. (3) of the Courts (Emergency Powers) Act, 1943. That is to say, they will urge that the landlord is either (subs. (2) (*a*) (ii)) a person exercising a remedy available to him by way of the taking of possession of property, or (*ib.* (iv)) a person exercising such remedy available to him by way of re-entry upon land, or else (subs. (3)) that the order is for recovery of possession in default of payment of rent.

The main argument advanced for the tenant (if such he was; the point was left open) in *Butcher* v. *Poole Corporation*, who had been forcibly ejected after his (alleged) term had been determined, was that the defendants were exercising a remedy available to them by way of re-entry upon land. What is now s. 1 (2) (*a*) (iv) was, therefore, the provision chiefly relied upon, and to a smaller extent sub-para. (ii)—the taking of possession of property. The judgment delivered by Lord Greene, M.R., took the line that all the remedies referred to in the subsection were remedies which defeated some right or title in the person against whom they were exercised and which did not merely exercise some existing right of property such as resuming possession of a stolen bicycle or of premises of which the tenant had surrendered the lease. In support, the learned Master of the Rolls referred not only to the nature of the several remedies mentioned in the subsection, but also to the provisions in subs. (4) of the same section (either Act) which contemplates that there is a person liable to perform the obligation "in question." ("The person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation in question," and who "is unable immediately to do so").

I take it that the cogency of this reasoning accounts for the omission to amend (substantially, that is) the provisions concerned. There is, perhaps, one point which might have been more fully dealt with. It was, of course, no part of the plaintiff's case that subs. (3) had been infringed, for the defendants had unceremoniously ejected him without even obtaining a judgment or order for possession, and if they had obtained such a judgment or order it would not have been "in default of payment of rent," as his occupation had been rent free. Lord Greene did, it is true, refer to subs. (3), but only to say that it gave no protection in the case of self-help, nor did it give protection in respect of judgments for the recovery of possession of land save in the three cases it mentioned, in all of which judgment must have been given by reason of default. I think the implication was that subs. (2) provided all the relief intended to be provided in the case of legal remedies not taking the shape of judgments, and the third subsection all the relief to be provided when land was recovered by means of a judgment.

Since then, the decision in *Watkinson* v. *Hollington* [1943] W.N. 226 (C.A.), in which it was held that leave is not necessary when it is sought to exercise the remedy of distress *damage feasant*, has tended to support our contributor's views: the basis of the decision was that the levying of such a distress was not the exercise of a right to enforce an obligation.

Two amendments of the Courts (Emergency Powers) Act, 1939, have provided further support for the proposition advanced in the leading article referred to. They were introduced by the 1940 Act, and are to be found in s. 3 (1) and (2) of the present statute. Taking subs. (2) first: this enacts that when leave to enforce a judgment or order for possession under the earlier section is refused or is given conditionally, "the lease shall be deemed not to have been forfeited and shall continue in force as long as the judgment or order remains unenforceable, but no longer." This is consistent only with the view that the earlier provisions relate to forfeiture and to nothing else (but I would include within the meaning of "forfeiture" cases in which an Act of Parliament authorises summary determination without the necessity for legal proceedings (Criminal Law Amendment Act, 1885, s. 5 (1); and, possibly, the right to forfeit arising from disclaimer of title).

Section 3 (1) of the present Act deals with cases in which a landlord of premises, *other than* a dwelling-house to which the Rent, etc., Restrictions Act applies, seeks leave to exercise any of the rights and remedies mentioned in s. 1 (1)–(3). It goes on to provide that leave shall not be made conditional on any default in payment of rent or mesne profits falling due after the application is heard (but that this matter may be considered on the occasion of any subsequent application).

What is the significance of the exclusion of controlled property? I think it is to be found in s. 5 (2) of the Increase of Rent, etc., Restrictions Act, 1920, which confers the widest discretion possible to suspend orders for possession of houses within the Acts (it may be exercised even when after a consent order (*Rossiter* v. *Langley* [1925] 1 K.B. 741)), the tenancies of which are, of course, protected by the Acts not only when determined by notice to quit or lapse of time, but also when determined by forfeiture, and this whether there is power under L.P.A., 1925, s. 146, to relieve against such forfeiture or not. In contrast to this there is nothing in the County Courts Act, 1934, which enables a judge to temper the wind to the shorn lamb when possession is recovered: in the case of judgments for money, three sections concern themselves with modification of this kind (ss. 96, 119 and 142), but the non-relievable forfeiture case would be outside any statutory provision were it not for the Courts (Emergency Powers) Act. The inference is, I suggest, that when the Rent, etc., Restrictions Acts apply to the property, the Legislature has placed and left the burden of seeking terms upon the tenant.

To-day and Yesterday.

LEGAL CALENDAR.

May 22.—While Miss Maria Clavering was in Calcutta with her father her beauty attracted the attention of John Craggs, a young lieutenant in the service of the East India Company, who became instantly infatuated. He wrote her letters, which she rejected. When she returned to London to the house of her uncle, Sir Thomas Clavering, in Orchard Street, he threw up his commission and followed her. Wherever she went he pursued her, to church, to court, to the theatre. She went to Salisbury, to Bristol, to Bath, and back to London, and still he "found means to trace her, to present her with letters and to assault her with the most ridiculous grimaces, the effects rather of insanity than love." On the 22nd May, 1779, Sir Thomas Clavering, General Johnstone and Miss Clavering attended the quarter sessions at Hick's Hall, to prosecute articles of the peace exhibited against Mr. Craggs. The lady declared she was not moved by hatred or malice but solely by fear of loss of life or bodily harm. As the young man did not appear it was ordered that he should be apprehended and bound to keep the peace to Miss Clavering for seven years, finding sureties for £500 and himself giving £1,000 security.

May 23.—Jonathan Wild, master criminal, receiver of stolen goods, private detective, informer, great original of Gay's Peachum, reigned over the London underworld for many years, organising specialised gangs for every sort of robbery, informing against criminals who became dangerous or inconvenient to him and running a lost property office through which, for suitable rewards, he enabled people to recover the goods of which he had caused them to be plundered. He was at last condemned to death in 1725. In Newgate Gaol he still exercised his authority to keep the other malefactors in order. On the 23rd May, the day before his death, he expressed a desire to receive the Sacrament and asked questions about the disposition of the soul when first separated from the body and about the local situation of the other world and seemed attentive to his prayers. He inquired how the noble Greeks and famous Romans who slew themselves came to be so glorious in history if suicide was a crime and, when told that the wisest of the heathens called it cowardice, he confessed that it was an impiety.

May 24.—Nevertheless, at 2 o'clock on the following morning he tried to kill himself by drinking laudanum but only succeeded in reducing himself to a state of coma. Two fellow prisoners walked him up and down in an endeavour to rouse him, and eventually he threw up the poison. In the cart on the way to Tyburn he was still drowsy, which was fortunate for him as the mob cursed him all along the road, pelting him with mud and stones. At the gallows the executioner allowed him to sit awhile and prepare himself, but the crowd showed such resentment and grew so menacing that the end could not be deferred, and so Wild perished on the 24th May, 1725.

May 25.—A rich farmer, named Porter, living at Raike Farm, near Chester, used to engage Irish labourers for the harvest every year. One evening a gang of them broke in while he was at supper, seized him and his eldest daughter and demanded where the money and plate was kept. In the confusion his youngest daughter, a little girl of thirteen, escaped to the stable, got astride a horse bare-backed and with a halter instead of reins galloped off across country to fetch her brother from Pulford. He and a friend hurried back, killed the robber on watch and found the other four just about to sit his father on the fire in order to extort his money from him. A brief struggle followed in which the son, though wounded by a pistol shot, wrested a hanger from one of the fellows and cut him to the ground. The others jumped out of the window pursued by the young men who caught two of them on Chester Bridge. The fifth was arrested later. The four were condemned to death, but one was eventually transported and another escaped from gaol. John M'Connelly and Luke Morgan were hanged on the 25th May, 1752.

May 26.—When Robert Emmet was tried in Dublin for his abortive rebellion, William Plunket appeared for the prosecution and some accused him of pressing the charges with undue severity to win the favour of the Government. A few months later he was made Solicitor-General for Ireland, and he was at once denounced as a renegade in William Cobbett's "Weekly Register" by a writer signing himself "Juverna." He brought an action for libel against Cobbett, which was tried at Westminster on the 26th May, 1804, £500 damages being awarded to the plaintiff. It afterwards transpired that the actual author of this and other libels was an Irish judge, Mr. Justice Johnson, who was thereupon brought to London, prosecuted for libel and convicted.

May 27.—Margaret Pole, Countess of Salisbury, daughter of George Plantagenet, Duke of Clarence, and grand-daughter of

COUNTY COURT CALENDAR FOR JUNE, 1944.

Circuit 1—Northumberland
His Hon. Judge Richardson
Alnwick,
Berwick-on-Tweed,
Blyth,
Consett, 23
Gateshead, 6
Hexham,
Morpeth, 12
†*Newcastle-upon-Tyne, 7, 9 (B.), 14 (R.B.), 16 (J.S.)
North Shields, 22
Seaham Harbour, 26
South Shields, 21
Sunderland, 14, 15 (R.B.)

Circuit 2—Durham
His Hon. Judge Gamon
Barnard Castle, 15
Bishop Auckland, 27
Darlington, 14, 28
*Durham, 13 (J.S.), 26
Guisborough
Leyburn,
†*Middlesbrough, 8, 21 (J.S.)
Northallerton, 29
Richmond,
†*Stockton-on-Tees, 6, 20
Thirsk,
West Hartlepool, 7

Circuit 3—Cumberland
His Hon. Judge Allsebrook
Alston,
Appleby, 19
†*Barrow-in-Furness, 7, 8
Brampton,
*Carlisle, 21
Cockermouth,
Haltwhistle, 7
*Kendal, 13
Keswick, 8 (R.)
Kirkby Lonsdale, 6
Millom,
Penrith, 22
Ulverston,
†*Whitehaven, 14
Wigton, 16
Windermere, 9
*Workington, 15

Circuit 4—Lancashire
His Hon. Judge Peel, O.B.E., K.C.
Accrington, 15
†*Blackburn, 5, 12, 19 (J.S.), 28 (R.B.)
†*Blackpool, 7, 8, 14, 16 (R.B.), 21 (J.S.)
Chorley, 22
Darwen, 16 (R.)
Lancaster, 9
†*Preston, 6, 13, 20 (J.S.), 23 (R.B.)

Circuit 5—Lancashire
His Hon. Judge Harrison
†*Bolton, 7, 14 (J.S.), 21
Bury, 12 (J.S.), 19
*Oldham, 8, 15, 22 (J.S.)
*Rochdale, 9 (J.S.), 23
*Salford, 5, 6 (J.S.), 13, 20

Circuit 6—Lancashire
His Hon. Judge Crosthwaite
His Hon. Judge Proctor
†*Liverpool, 5, 6, 7, 8, 9, 12, 13, 14 15, 16, 19, 20, 21, 22, 23, 26, 28, 29, 30
St. Helens, 7, 21
Southport, 6, 20
Widnes 9
*Wigan, 8, 22

Circuit 7—Cheshire
His Hon. Judge Burgis
Altrincham, 7 (J.S.), 21
*Birkenhead, 7 (R.), 14, 21 (R.), 23, 27 (J.S.), 28
Chester, 6
*Crewe, 9
Market Drayton,
Nantwich,
*Northwich, 15
Runcorn, 13
*Warrington, 8, 22 (J.S.)

Circuit 8—Lancashire
His Hon. Judge Rhodes
Leigh, 16, 23
†*Manchester, 14, 19, 20, 21, 22, 23 (B.), 26, 27, 28, 29

Circuit 10-Lancashire
His Hon. Judge Raleigh Batt
*Ashton-under-Lyne, 9, 16, 26 (B.)
*Burnley, 22
Colne,
Congleton, 23
Hyde, 7
*Macclesfield, 8, 13 (B.)
Nelson, 21
Rawtenstall, 14
Stalybridge, 29
*Stockport, 6 (J.S.), 13, 27, 28 (J.S.), 30 (B.)
Todmorden, 20

Circuit 12—Yorkshire
His Hon. Judge Neal
*Bradford, 8, 9 (J.S.),21
Dewsbury, 19
*Halifax, 15, 16
*Huddersfield, 13, 14
Keighley, 6
Otley, 7
Skipton, 5
Wakefield, 13, 20

Circuit 13—Yorkshire
His Hon. Judge Essenhigh
*Barnsley, 7, 8, 9
Glossop, 28
Pontefract, 19, 20, 21
Rotherham, 13, 14
*Sheffield, 6 (J.S.), 9 (R.), 15, 16, 22, 23, 27 (J.S.), 29, 30

Circuit 14—Yorkshire
His Hon. Judge Stewart
His Hon. Judge Ormerod
Easingwold,
Harrogate, 9 (R.), 16
Helmsley,
Leeds, 7, 8 (J.S.), 14, 21, 22, (J.S.), 27 (R.B.)
Ripon,
Tadcaster,
York, 6

Circuit 16—Yorkshire
His Hon. Judge Griffith
Beverley, 8 (R.), 9
Bridlington, 5
Goole, 20 (R.), 27
Great Driffield,
†*Kingston-upon-Hull, 12 (R.), 13 (R.), 14, 15, 16 (J.S.), 19 (B.), 26 (R.)
New Malton,
Pocklington,
*Scarborough, 6, 7, 13 (R.B.)
Selby, 23
Thorne, 22
Whitby,

Circuit 17—Lincolnshire
His Hon. Judge Langman
Barton-on-Humber,
†*Boston, 8 (R.), 15, 22 (R.B.)
Brigg,
Caistor, 9
Gainsborough, 26
Grantham, 16, 23 (R.)
†*Great Grimsby, 1 (R.B.), 6, 7 (J.S.), 8, 21 (J.S.), 22
(*R. every Wednesday*)
Holbeach, 29 (R.)
Horncastle, 13
*Lincoln, 8 (R.), (R.B.), 12
*Louth, 20
Market Rasen, 6 (R.)
Scunthorpe, 13 (R.), 27
Skegness, 14
Sleaford, 20 (R.)
Spalding, 28
Spilsby, 9 (R.)

Circuit 18—Nottinghamshire
His Hon. Judge Tucker
Doncaster, 7, 8, 9, 27
East Retford, 13
Mansfield, 5, 6
Newark, 16 (R.)
*Nottingham, 1 (R.B.), 14, 15 (J.S.), 16, 21, 22, 23 (B.)
Worksop, 6 (R.), 20

Circuit 19-Derbyshire
His Hon. Judge Willes
Alfreton, 6
Ashbourne,
Bakewell, 13
Burton-on-Trent, 14 (R.B.)
Buxton, 19
*Chesterfield, 9, 16
*Derby, 7, 20 (R.B.), 21, 22 (J.S.)
Ilkeston, 20
Long Eaton, 15
Matlock,
New Mills,
Wirksworth, 8

Circuit 20—Leicestershire
His Hon. Judge Galbraith, K.C.
Ashby-de-la-Zouch,20
*Bedford, 13 (R.B.), 22
Bourne,
Hinckley,
Kettering, 20
*Leicester, 12, 13, 14 (J.S.), (B.), 15 (B.), 16 (B.)
Loughborough, 27
Market Harborough,
Melton Mowbray, 16 (R.), 23
Oakham, 9 (R.)
Stamford,
Wellingborough, 21

Circuit 21—Warwickshire
His Hon. Judge Daie
His Hon. Judge Finnemore (Add.)
*Birmingham, 12, 13 (B.), 14, 15, 16, 19, 20 21, 22, 23, 26, 27, 28, 29

Circuit 22—Herefordshire
His Hon. Judge Roope Reeve, K.C.
Bromsgrove, 16
Bromyard,
Evesham, 21
Great Malvern, 5
Hay, 7
*Hereford, 13, 22
*Kidderminster, 6, 20
Kington, 14
Ledbury,
*Leominster, 12
Ross, 23
†*Stourbridge, 8, 9
Tenbury,
*Worcester, 15, 19

Circuit 23 — Northamptonshire
His Hon. Judge Forbes
Atherston,
Banbury, 23
Bletchley, 20
Chipping Norton, 28
*Coventry, 12 (R.B.), 13, 26
Daventry,
Leighton Buzzard, 15
*Northampton, 5, 6, 20 (R.), 23 (R.B.)
Nuneaton, 7
Rugby, 8, 22 (R.)
Shipston-on-Stour, 19
Stow-on-the-Wold, 14
Stratford-on-Avon, 22
Warwick, 9 (R.B.)

Circuit 24 — Monmouthshire
His Hon. Judge Thomas
Abergavenny, 29
Abertillery, 13
Bargoed, 14
Barry, 8
†*Cardiff, 5, 6, 7, 9, 10
Chepstow, 30
Monmouth, 20
†*Newport, 22, 23
Pontypool and Blaenavon, 21
*Tredegar, 15

Circuit 25—Staffordshire
His Hon. Judge Caporn
*Dudley, 13, 20 (J.S.), 27
*Walsall, 8, 15 (J.S.), 22, 29 (J.S.)
*West Bromwich, 14, 21 (J.S.), 28
*Wolverhampton, 9 (J.S.), 16, 23 (J.S.), 30

Circuit 26—Staffordshire
His Hon. Judge Finnemore
Alcester,
Burslem,
*Hanley, 8, 22
Leek, 12
Lichfield, 14
Newcastle - under - Lyme, 13
Redditch, 16
*Stafford, 9
*Stoke-on-Trent, 7
Stone,
Tamworth, 15
Uttoxeter,

Circuit 28-Shropshire
His Hon. Judge Samuel, K.C.
Brecon, 16
Bridgnorth, 14
Builth Wells, 8
Craven Arms, 6
Knighton, 7
Llandrindod Wells, 9
Llanfyllin,
Llanidloes,
Ludlow, 12
Machynlleth
Madeley, 15
Newtown,
Oswestry, 13
Presteign,
*Shrewsbury, 19, 22
Wellington, 20
Welshpool,
Whitchurch, 21

Circuit 29—Caernarvonshire
His Hon. Judge Evans, K.C.
Bala,
†*Bangor, 12
Blaenau Festiniog, 6
*Caernarvon, 14
Colwyn Bay,
Conway,
Corwen,
Denbigh,
Dolgelly,
Flint
Holyhead, 13
Holywell, 9
Llandudno, 15
Llangefni
Llanrwst, 16 (R.)
Menai Bridge,
Mold, 23 (R.)
*Portmadoc, 5
Pwllheli, 16
Rhyl, 7
*Ruthin, 8
Wrexham, 21, 22

Circuit 30—Glamorganshire
His Hon. Judge Williams, K.C.
*Aberdare 6
Bridgend, 26 (R.), 27, 28, 29, 30
Caerphilly, 22 (R.)
Merthyr Tydfil, 8
*Mountain Ash, 7
Neath, 20, 21, 22
*Pontypridd, 14, 15, 16
Port Talbot, 23
*Porth, 12
*Ystradyfodwg, 13

Circuit 31—Carmarthenshire
His Hon. Judge Morris, K.C.
Aberayron,
†*Aberystwyth, 23
Cardigan
†*Carmarthen and Ammanford, 6, 7
†*Haverfordwest, 21
Lampeter, 9
Llandovery,
Llanelly, 27, 29
Narberth, 19
Newcastle-in-Emlyn,
Pembroke Dock, 20
*Swansea, 12, 14, 15, 16

Circuit 32—Norfolk
His Hon. Judge Rowlands
Beccles,
Diss, 6
Downham Market, 8
East Dereham,
Fakenham,
†*Great Yarmouth, 22, 23
Harleston
Holt
†*King's Lynn, 15, 16
*Lowestoft, 9
North Walsham,
*Norwich, 19 20, 21
Swaffham, 7
Thetford, 13
Wymondham, 14

Circuit 33—Essex
His Hon. Judge Hildesley, K.C.
Braintree, 30
*Bury St. Edmunds, 27
*Chelmsford, 5
Clacton, 13
Colchester, 1
Felixstowe, 7
Halesworth, 6
Halstead, 16
Harwich, 2
†*Ipswich, 14, 15, 21
Maldon,
Saxmundham,
Stowmarket, 23
Sudbury,
Woodbridge,

Circuit 34-Middlesex
His Hon. Judge Tudor Rees
Uxbridge, 6, 13, 20

Circuit 35 — Cambridgeshire
His Hon. Judge Campbell
Biggleswade, 6
Bishops Stortford, 7
*Cambridge, 9 (R.B.), 21 (J.S.) (B.), 22
Ely, 19
Hitchin, 12
*Huntingdon, 9 (R.)
Luton, 8 (J.S.) (B.), 9, 22 (R.B.)
March, 5
Newmarket, 23
*Oundle, 16
Peterborough, 9 (R.), 13, 14
Royston,
Saffron Walden,
Thrapston,
Wisbech, 20

Circuit 36—Berkshire
His Hon. Judge Hurst
*Aylesbury, 9, 23 (R.B.)
Buckingham, 20
Cheltenham, 6. 13
Henley-on-Thames,
High Wycombe, 22
Northleach,
Oxford, 12, 26 (R.B.), 29
Reading, 8 (R.B.), 14, 15, 16
Tewkesbury,
Thame, 15
Wallingford, 19
Wantage,
Witney,

Circuit 37-Middlesex
His Hon. Judge Sir Gerald Hargreaves
Chesham, 6
*St. Albans, 13
West London, 5, 6, 7, 12, 13, 14, 19, 20, 21, 26, 27, 28

Circuit 38-Middlesex
His Hon. Judge Alchin
Barnet, 6, 13, 27
*Edmonton, 8, 9, 15, 16, 20, 22, 23, 29, 30
Hertford, 7
Watford, 14, 21, 28

Circuit 39-Middlesex
His Hon Judge Engelbach
His Hon. Judge Tudor Rees (Add.)
Shoreditch. *List not received.*
Windsor. *List not received.*

Circuit 40—Middlesex
His Hon. Judge Jardine, K.C.
His Hon. Judge Drucquer (Add.)
His Hon. Judge Tudor Rees (Add.)
Bow, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30

Circuit 41-Middlesex
His Hon. Judge Earengey, K.C.
His Honour Judge Trevor Hunter, K.C. (Add.)
Clerkenwell, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30

Circuit 42-Middlesex
His Hon. Judge Lilley
His Hon. Judge David Davies, K.C.
Bloomsbury. *List not received.*

Circuit 44-Middlesex
His Hon. Judge Austin Jones
His Hon. Judge Davies, K.C. (Add.)
Westminster, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30

Circuit 45—Surrey
His Hon. Judge Hancock, M.C.
His Hon. Judge Hurst (Add.)
*Kingston 6, 9, 13, 16, 20, 23, 27, 30
*Wandsworth, 7, 8, 12, 14, 15, 19, 21, 22, 26, 28, 29

Circuit 46-Middlesex
His Hon. Judge Drucquer
Brentford, 12, 15, 19, 22, 26, 29
*Willesden, 13, 14, 16, 20, 21, 23, 27, 28, 30

Circuit 47—Kent
His Hon. Judge Wells
His Hon. Judge Hurst (Add.)
Woolwich,
(*List not received.*)

Circuit 48—Surrey
His Hon. Judge Konstam, C.B.E. K.C.
His Hon. Judge Bensley Wells (Add.)
Dorking,
Epsom, 7, 14, 28
*Guildford, 8, 29
Horsham,
Lambeth, 7, 8, 9, 12, 13, 15, 16, 19, 20, 21, 23, 26, 27, 29, 30
Redhill, 21

Circuit 49—Kent
His Hon. Judge Clements
Ashford, 5
*Canterbury, 13
Cranbrook,
Deal, 16
*Dover,
Faversham, 12
Folkestone, 6
Hythe,
*Maidstone, 9
Margate, 8
*Ramsgate,
†*Rochester, 14, 15
Sheerness,
Sittingbourne, 20
Tenterden, 19

Circuit 50—Sussex
His Hon. Judge Austin Jones
His Hon. Judge Archer, K.C. (Add.)
Arundel,
Brighton, 8, 9, 15, 16, 29, 30
†*Chichester, 23
*Eastbourne, 21
*Hastings, 6
Haywards Heath, 7
*Lewes, 26
Petworth,
Worthing, 13

Circuit 51 — Hampshire
His Hon. Judge Topham, K.C.
Aldershot 16
Basingstoke, 14
Bishops Waltham, 7
Farnham, 23
*Newport, 28
Petersfield,
†*Portsmouth, 5 (B.), 8, 15, 22
Romsey, 9
Ryde,
†*Southampton, 6, 13, 14 (B.). 20
*Winchester, 21

Circuit 52—Wiltshire
His Hon. Judge Jenkins, K.C.
*Bath, 8 (B.), 15 (B.)
Calne,
Chippenham, 20 (R.)
Cirencester, 29
Devizes, 6 (R.)
Dursley,
*Frome, 13 (R.)
Hungerford, 28
Marlborough,
Melksham, 16
*Newbury, 14 (R.)
Stroud, 21
*Swindon, 7, 14 (B.)
Trowbridge, 9
Warminster,
Wincanton, 16 (R.)

Circuit 54-Somersetshire
His Hon. Judge Wethered
†*Bridgwater, 9
†*Bristol, 5 (J.S.), 12, 13, 14, 15, 16 (B.), 19 (J.S.), 21, 22, 23 (B.)
Gloucester, 20
Minehead, 20 (R.)
Newent, 14 (R.)
Newnham, 7 (R.)
Thornbury
*Wells 6
Weston-super-Mare, 7

Circuit 55 — Dorsetshire
His Hon. Judge Cave, K.C.
Andover, 7
Blandford, 15
*Bournemouth, 1 (R.), 9 (J.S.), 13, 14
Bridport, 27
Crewkerne, 13 (R.)
*Dorchester, 2
Lymington, 23
*Poole, 21, 28 (R.)
Ringwood, 22
*Salisbury, 1
Shaftesbury, 5
Swanage, 16
*Weymouth 6
Wimborne, 12
*Yeovil, 8

Circuit 56—Kent
His Hon. Judge Sir Gerald Hurst, K.C.
Bromley, 6, 7, 27, 28
*Croydon, 5, 12, 13, 14 20, 21, 26
Dartford, 8, 29
East Grinstead,
Gravesend, 19
Sevenoaks,
Tonbridge,
Tunbridge Wells, 22

Circuit 57-Devonshire
His Hon. Judge Thesiger
Axminster, 12 (R.)
†*Barnstaple, 20
Bideford, 21
Chard, 15 (R.)
†Exeter, 8, 9
Honiton, 12
Langport, 19
Newton Abbot, 15
Okehampton, 16
South Molton,
Taunton, 5
Tiverton, 14
*Torquay, 6, 7
Torrington, 22
Totnes,
Wellington, 12 (R.B.)

Circuit 58—Essex
His Hon. Judge Trevor Hunter, K.C.
Brentwood, 23 (R.)
Gray's Thurrock, 13 (R.)
Ilford, 5 (R.), 6, 12 (R.), 19 (R.), 20, 26 (R.), 27
Southend, 7 (R.), 14, 15 (R.), 16, 21 (R.B.)

Circuit 59—Cornwall
His Hon. Judge Armstrong
Bodmin, 20
Camelford, 21
Falmouth, 19 (R.)
Helston, 7
Holsworthy, 15
Kingsbridge, 23 (R.)
Launceston, 22
Liskeard, 14
Newquay,
†*Penzance, 6
Plymouth, 21 (R.), 27, 28, 29, 30
Redruth, 8
St. Austell, 13
Tavistock, 16
†*Truro, 9

The Mayor's & City of London Court
His Hon. Judge Dodson
His Hon. Judge Beazley
His Hon. Judge Thomas
His Hon. Judge McClure
Guildhall, 5, 6, 7 (A.), 8, 9 (J.S.), 12, 13, 14 15, 16 (J.S.), 19, 20, 21, 22, 23 (J.S.), 26, 27, 28 (A.), 29, 30 (J.S.)

* = Bankruptcy Court
† = Admiralty Court
(R.) = Registrar
(J.S.) = Judgment Summonses
(B.) = Bankruptcy
(R.B.) = Registrar in Bankruptcy
(Add.) = Additional Judge
(A.) = Admiralty

Warwick the Kingmaker, ranked with the first nobility of the kingdom and when Henry VIII came to the throne he described her as the most saintly woman in England. She was governess and godmother to his daughter, the Princess Mary, but a rift came when he repudiated his wife Catherine of Aragon and took Anne Boleyn for his queen, and the religious revolution on which he embarked made the breach unbridgeable, for she and her family remained steadfastly loyal to the old faith. Her son Reginald, Cardinal Pole, was abroad beyond the reach of royal vengeance, but another son, Lord Montague, included, like herself, in a sweeping Act of Attainder, was executed. She was never called on to answer the accusations against her and after two years of great hardship in the Tower of London she was suddenly told on the morning of the 27th May, 1541, that she was to die. She replied that no crime had been imputed to her and walked boldly to East Smithfield Green, where the Lord Mayor and a select company witnessed the execution. She commended her soul to God and asked the bystanders to pray for the King, the Queen, Prince Edward and the Princess Mary.

May 28.—On the 28th May, 1609, the Inner Temple Benchers ordered "that Richard Marple, the chief butler, shall have a collection towards the payment of his debts and maintenance of his wife and family; that the steward shall pay the said Richard the surplusage of his cheese money, keeping so much in his hands as will pay the cheesemonger."

RELUCTANT JURORS.

The war has produced an excellent new jury story of a woman summoned to serve who wrote to the court: "In answer to your letter, I am not interested in your offer as, thanks to the war, I now have a good paying job." The true nature of such a summons often seems to elude those who receive it. Once, when the names of a jury were being called out, a small boy in an Eton suit answered to one of them. "What are you doing here?" asked the associate. "Please, sir, I got in on papa's summons." "Are you here to make an excuse for your father or to represent him?" "To tell you papa cannot come, but he said I could sit for him." The child was bitterly disappointed when told that he was not a competent substitute. A novel excuse from jury service once offered to Mr. Justice Darling was that of a man who insisted that as a Christian he had a conscientious objection to ruling or deciding in men's affairs. After a rather nebulous discussion the judge released him not on the grounds he put forward, but because "I don't think your deliberations would be likely to be of any assistance to the court." Then there was the chemist who asked to be excused jury service in *Bardell* v. *Pickwick* because he had left his shop in charge of an errand boy apt to confuse Epsom salts with oxalic acid. Along with age, deafness or a bad cough, important business ranks high as a favourite plea. Once at Exeter Assizes when the flood of applications was excessive Mr. Justice Ridley agreed to release half the jurors and they tossed up in court to determine who should go free.

Obituary.

HIS HON. J. LLOYD MORGAN, K.C.

His Hon. John Lloyd Morgan, K.C., died on Wednesday, 17th May, aged eighty-three. He was educated at Tettenhall College, Staffs, Owens College, Manchester, and Trinity College, Cambridge. In 1884 he was called to the Bar by the Middle Temple, and took silk in 1906. From 1889 to 1910 he sat as Liberal M.P. for West Carmarthenshire. In 1908 he was appointed Recorder of Swansea, and two years later he became County Court Judge for Carmarthen, retiring in 1926.

SQUADRON-LEADER R. BUSHELL.

Squadron-Leader Roger Bushell, barrister-at-law, lost his life on 25th March last, while attempting to escape from a German Prison Camp. He was called by Lincoln's Inn in 1934.

MR. E. RIDLEY.

Mr. Edwin Ridley, O.B.E., LL.B., Director of Public Assistance for the County of Middlesex, died on Thursday, 18th May, aged sixty. He was called by the Middle Temple in 1927.

MR. A. J. CASH.

Mr. Albert James Cash, solicitor, of Messrs. A. J. Cash & Sons, solicitors, of Derby, died recently, aged seventy-one. He was admitted in 1903, and had been a member of the Derbyshire County Council for thirty-three years.

MR. W. T. FAIRBAIRN.

Mr. Walter Thomas Fairbairn, solicitor, of Messrs. Avery, Son & Fairbairn, solicitors, of Finsbury Square, E.C.2, Tottenham, N.17, and Upper Edmonton, N.18, died recently, aged seventy-five. He was admitted in 1902.

MR. M. JACKSON.

Mr. Michael Jackson, solicitor, of Messrs. Barlow, Jackson and Gee, solicitors, of Wigan, died recently, aged eighty-one. He was admitted in 1884.

H.M. Forces: Service of Legal Process.

Memorandum issued by the Lord Chancellor's Department.

We have pleasure in printing below the Memorandum issued by the Lord Chancellor's Department on service of legal process on members of H.M. Forces, referred to in our "Current Topics" (*ante*, p. 145).

PART I.

PRELIMINARY.

1. This memorandum has been prepared for the information of solicitors who may wish, on behalf of their clients, to serve legal process in civil proceedings in the courts of England and Wales on parties to the proceedings who are members of H.M. Forces.

2. The legal process to which the memorandum relates includes process of the County Court, as well as the Supreme Court, and includes interlocutory process, such as summonses and notices, as well as originating process, such as writs of summons, petitions, and originating summonses in the High Court, and, for the County Court, ordinary and default summonses and originating applications.

3. For brevity, the client on whose behalf the solicitor desires to effect service is referred to in the memorandum as the plaintiff, and the person to be served as the defendant, and the expression "in this country" means in Great Britain or Northern Ireland, "beyond the seas" means outside Great Britain and Northern Ireland, "the jurisdiction" means England and Wales, and "England" includes Wales.

PART II.

ENQUIRY WHETHER THE DEFENDANT IS IN THIS COUNTRY.

4. The facilities offered by the Service Departments differ according to whether the defendant is serving in this country or beyond the seas.

5. If the defendant is serving beyond the seas, there are obvious reasons why his commanding officer may not wish him to be troubled by the receipt of legal process, and, if he were to receive it, he might find it difficult or impossible to take the appropriate steps for defending the proceedings. Moreover, the plaintiff must usually obtain the leave of the court before he can attempt to serve process outside the jurisdiction.

6. For these reasons the plaintiff's solicitor will probably wish to know at the outset whether the defendant is serving in this country or beyond the seas and also, if he is serving in this country, whether he is serving in England, Scotland or Northern Ireland. If the plaintiff does not know whether the defendant is serving in this country or beyond the seas, the solicitor may enquire of the appropriate Service Department by letter in the manner prescribed below in paragraphs 8 to 11.

7. For this purpose, the appropriate Service Department is the Admiralty if the defendant is serving in the Navy, the Royal Marines, or the W.R.N.S.; the War Office, if the defendant is serving in the Army, or the A.T.S., but excluding the Home Guard; or the Air Ministry, if the defendant is serving in the R.A.F., including the W.A.A.F.

8. The letter of enquiry should in every case show that the writer is a solicitor and that the enquiry is made with a view to the service of legal process in civil proceedings, and postage on the letter should be pre-paid.

Admiralty.

9. The letter of enquiry to the Admiralty should be addressed to the Secretary (Naval Law Branch), Admiralty, London, S.W.1, and should give the rank or rating and name of the defendant, and, if possible, his official number, and should ask whether the defendant is serving in a base ship or a shore establishment in this country. The Admiralty are willing to answer that question, if asked by a solicitor with a view to the service of legal process in civil proceedings; and if the answer is in the affirmative, it will usually show whether the base ship or shore establishment is in England, Scotland or Northern Ireland. If the defendant is not serving in a base ship or shore establishment in this country, then for the purpose of this memorandum he must be regarded as not serving in this country but beyond the seas, whether his ship happens to be in port in this country or not.

War Office.

10. The letter of enquiry to the War Office should be addressed to the Under-Secretary of State (C.2 (a)), the War Office, S.W.1, and should, if possible, give the rank, name, regiment, and official number of the defendant, and should ask for the address where he is serving. The letter, besides complying with paragraph 8, should state the precise nature of the proceedings and should contain an undertaking that, if the address is given, it will be used solely for the purpose of serving process in the proceedings and will not be disclosed by the solicitor or his agent to his client or any other person.

Normally the War Office will indicate whether or not the defendant is serving in England, Scotland, Northern Ireland or beyond the seas, and in some cases may give the service address.

Air Ministry.

11. An enquiry of the Air Ministry should give the rank and name of the defendant, and, if possible, his official number, and should ask whether the defendant is serving in this country or beyond the seas, and, if serving in this country, what is the address of his station, and, if that cannot be given, whether he is serving in England, Scotland, or Northern Ireland. The letter should be addressed:—

In the case of R.A.F. Officers to the Under-Secretary of State, Air Ministry (S.7(b)), Adastral House, Kingsway, W.C.2.

In the case of W.A.A.F. Officers, to the Under-Secretary of State, Air Ministry (S.11(c)), Adastral House, Kingsway, W.C.2.

In the case of other ranks (both R.A.F. and W.A.A.F.) to the Air Officer-in-Charge of Records, R.A.F., Gloucester.

The letter should contain a personal undertaking by the solicitor that any information given will be treated as confidential, will not be revealed by him or his agent to his client or any other person, and will be used for the purpose of issuing and effecting service of legal process and for no other purpose whatsoever. If it is possible to identify the defendant from the particulars given, the Air Ministry are willing to answer the first of these three questions, and usually the third, and unless in the particular case there are reasons for withholding the information, they are willing to give the service address. The particulars will be given from the latest information available, but absolutely accuracy cannot be guaranteed, as personnel are liable to be moved at short notice under local arrangements.

Part III.
FACILITIES FOR SERVICE ON THE DEFENDANT IN THIS COUNTRY.

12. This memorandum does not deal further with the case where the defendant is serving beyond the seas, but this does not preclude the solicitor from serving the process on such a defendant in any manner which may be allowed by the appropriate Service Department in any particular case or class of case and by the law and practice of the court.

13. If the defendant is serving in a base ship or shore establishment in this country or in the Army or Air Force in this country, there are other ways in which the appropriate Service Department may be able to help the plaintiff's solicitor. These ways differ according to whether the process requires personal service or not, and according to which of the Service Departments is concerned.

A. Process Requiring Personal Service or Substituted Service in Lieu of Personal Service.

14. Where personal service is required by the Rules but cannot be effected, there is the possible alternative of substituted service. To obtain an order for substituted service, it must be shown amongst other things that prompt personal service cannot be effected and that, if service by some other means were allowed, the process would in all probability come to the knowledge of the person to be served. In either case, therefore, it is necessary for the plaintiff's solicitor to know whether prompt personal service is possible. The method of discovering this and the further facilities for service differ according to which of the Service Departments is concerned.

Admiralty.

15. If the plaintiff's solicitor does not know in which base ship or shore establishment the defendant is serving, he may enquire of the Admiralty in the manner described in paragraph 9. If the Admiralty do not give the information, the solicitor will have taken the first step towards obtaining an order for substituted service as he will have evidence to put before the court that prompt personal service is impossible. The Admiralty will, however, in many cases be able to answer the question.

16. If the solicitor knows, either from enquiry of the Admiralty or otherwise, in which base ship or shore establishment the defendant is serving, he may communicate with the commanding officer of the ship or shore establishment, asking for permission to go on board, or to enter the establishment, for the purpose of effecting service. The commanding officer may grant permission for the process server to come on board the ship or to enter the establishment or he may offer arrangements for the defendant to attend at a place in the vicinity of the ship or establishment in order that he may be served. If the permission is given, the solicitor will be able to effect personal service in England, or, with the leave of the court, in Scotland or Northern Ireland. If the permission is not given, the solicitor will have evidence that prompt personal service is impossible.

17. If the solicitor knows in which base ship or shore establishment the defendant is serving, he may send a letter to the defendant by registered post by addressing it to him at the postal address of the ship or establishment, or, if he is uncertain of the postal address, by addressing it to him at the ship or establishment, care of the G.P.O., London, E.C.1. The fact that a letter so addressed and posted is not returned through the dead letter office, is some evidence that such a letter if it contains legal process, would, if posted, in all probability reach the defendant, and such evidence may be useful in obtaining an order for substituted service in a case where prompt personal service is impossible.

18. If it is necessary or desirable for the solicitor to ascertain, for the purpose of the proceedings, whether a letter addressed to the defendant and containing legal process or relating to legal process has in fact reached the defendant, he may write to the Admiralty in accordance with paragraphs 8 and 9 asking this question, and giving the date on which the letter to the defendant was posted. If he does so, the Admiralty are willing to cause enquiry to be made as to whether the letter has been received by the addressee and as to the date of its receipt, and to pass on the information, when received, to the solicitor.

War Office.

19. If the defendant is in the Army, the solicitor may have been informed by his client or by the War Office, where in this country the defendant is serving. In that case, he may communicate with the Commanding Officer asking for an appointment when he can attend to effect personal service on the defendant. If he does not get a favourable answer, or if he does not know, and cannot ascertain from the War Office, where in this country the defendant is serving, he will have some evidence that prompt personal service is impossible, which may be useful in an application for substituted service.

20. If the solicitor does not know where in this country the defendant is serving, he may send a letter relating to legal process or (where there is an order for substituted service by post) a letter containing legal process, to the defendant by enclosing the letter in a letter written to the War Office in the manner described in paragraphs 8 and 10, and requesting the War Office to forward the enclosure to the addressee. The War Office have undertaken to forward such a letter on receiving such a request. Although the War Office cannot guarantee that the letter will actually be received by the defendant or furnish proof of such receipt, this undertaking affords evidence, which the solicitor can place before the court when applying for an order for substituted service by post, that if the order is made, the process will in all probability come to the knowledge of the defendant in this country. Care should be taken, however, to make the application within a short time after the receipt of information that the defendant is serving in this country, as lapse of time will weaken or destroy the probability that the process will come to the knowledge of the defendant in this country.

If the defendant is serving in Scotland or Northern Ireland, the solicitor should consider whether he does not need also to apply for leave to serve out of the jurisdiction.

Air Ministry.

21. If the defendant is in the Air Force, the solicitor may have been informed by his client or by the Air Ministry where in this country the defendant is serving. In that event he should in every case apply to the Commanding Officer asking for an appointment when he can attend to effect personal service on the defendant, and, subject to the exigencies of the service, the defendant will be informed of the application and facilities for such an appointment will be afforded. If the solicitor does not get a favourable answer, he will have some evidence that prompt personal service is impossible, which may be useful in an application for substituted service by post.

If the defendant is serving in Scotland or Northern Ireland, the solicitor should consider whether he does not need also to apply for leave to serve out of the jurisdiction.

22. If the solicitor has been informed of the address of the defendant by the Air Ministry, and desires to apply for substituted service, care should be taken to make the application for substituted service by post within a short time after the receipt of the information as to the address. Lapse of time would weaken or destroy the probability that delivery by post to that address will bring the process to the knowledge of the defendant, and might prejudice the application. Moreover, for the reasons stated in paragraph 11 above, and owing to the exigencies of the service generally, it cannot be assumed that a letter containing legal process will always reach the addressee, and in particular, within any specific period of time.

B. Process not Requiring Personal Service.

23. In some courts (other than the High Court) personal service is not always required even for the service of originating process. In the County Court, for example, an ordinary summons may, in certain conditions, be served by post. If the Rules of the court prescribe a manner of service other than service by post and service cannot be effected in that manner, it may be open to the solicitor to apply for an order for substituted service by post. The solicitor may make use of the information given in paragraphs 17 to 22 for the purpose of an application for substituted service by post, and for service by post, when the order for substituted service has been obtained, or (without obtaining any such order) in cases where service by post is permitted by the Rules of the court.

24. Where process may, under the Rules of the court, be served by an officer of the court, as in the case of County Court process, the appropriate Service Department will pay the same attention to a letter written by an officer of the court endeavouring to serve process for the plaintiff as they would pay for a letter written by the plaintiff's solicitor.

C. General.

25. The facilities mentioned in this memorandum are not necessarily exhaustive, and a solicitor may avail himself of any means of service on a defendant in this country which may be permitted by the appropriate Service Department in any particular case or class of case and by the law and practice of the court concerned.

In no case, however, will a Department disclose the private address of the defendant.

War Legislation.

Statutory Rules and Orders, 1944.

E.P. 549. **Consumer Rationing** (Amendment) (No. 6) Order, May 11.

E.P. 9. **Employment in Essential Undertakings in Egypt** Order, May 6.

E.P. 547. **Fish Sales** (Charges) Order, May 9.

E.P. 566. **Food** (Local Distribution) General Licence, May 12.

E.P. 554. **Fuel.** General Permit (Controlled Premises) No. 2, May 5, under the Control of Fuel (No. 3) Order, 1942, General Direction (Central Heating and Hot Water Plants) No. 1.

E.P. 555. Fuel. General Permit (Restriction of Heating) No. 1, May 5, under the Control of Fuel (Restriction of Heating) Order, 1944.

No. 567/L.25. **Inferior Court, England,** Procedure. The Mayor's and City of London Court Rules (Solicitors' Remuneration), April 3.

E.P. 545. **Limitation of Supplies** (Miscellaneous). Amendment, May 13, to General Licence dated 1st Feb., 1943, made under the Limitation of Supplies (Miscellaneous) (No. 19) Order, 1943, *re* Supply of Certain Goods to Privileged Consumers.

E.P. 515. **Merchant Shipping.** The British Seamen (Offences in Foreign Countries) Order, May 2.

No. 535. **National Service** (Isle of Man) Order in Council, May 4.
No. 536. National Service. Order in Council, May 4, approving Proclamation that certain male British subjects shall become liable to be called up for service in the armed forces of the Crown.
No. 541. **Prevention of Fraud** (Investments) Deposits Regulations, May 11.
No. 540. Prevention of Fraud (Investments) Forms Regulations, May 11.
No. 562/L.24. **Solicitors** (Disciplinary Proceedings) Rules, May 5.
No. 556/L.23. **Supreme Court, England,** Procedure, District Registries. Form for use in District Registries approved by the Lord Chancellor, May 8, in accordance with r. 33 of Ord. LXI of the Rules of the Supreme Court [published in last week's issue, *ante*, p. 180].
No. 546. **Trading with the Enemy** (Specified Persons) (Amendment) (No. 6) Order, May 9.
No. 528. **War Risks** (Commodity Insurance) (No. 2) Order, May 9.

BOARD OF TRADE.

Trading with the Enemy. Legislation in force in the United Kingdom on Feb. 1, 1944.

INLAND REVENUE.

Income Tax Act, 1918, and Finance Acts, 1919–1941 inclusive, so far as they relate to Income Tax (including Sur-tax), with Statutory Regulations and Orders, Cross-Reference to Former Enactments, Tables of Rates, and Index. Supplement No. 2.

Parliamentary News.

HOUSE OF LORDS.

Consolidated Fund (No. 3) Bill [H.C.].
Read First Time. [23rd May.
Pensions (Increase) Bill [H.C.].
Police and Firemen (War Service) Bill [H.C.].
Reported without Amendment. [23rd May.

HOUSE OF COMMONS.

Agriculture (Miscellaneous Provisions) Bill [H.C.].
Read Second Time. [16th May.
Finance Bill [H.C.].
Read Second Time. [24th May.
Food and Drugs (Milk and Dairies) Bill [H.C.].
Read Second Time. [19th May.
Rural Water Supplies and Sewerage Bill [H.C.].
Read Second Time. [18th May.

QUESTIONS TO MINISTERS.

ESTATE DUTY: HOUSE VALUATION.

Lieut.-Colonel WINDSOR-CLIVE asked the Chancellor of the Exchequer whether he will consider the hardship caused to testamentary beneficiaries, such as a widow and children, by charging estate duty in respect of the house owned and occupied by the deceased on an inflated war-time value which cannot in fact be realised because the beneficiaries must continue to reside, in the house, and take steps to alleviate this burden.

Sir JOHN ANDERSON: Yes, sir. As my hon. friend is aware, the general rule of valuation for purposes of estate duty is to take the market value at the date of death. I have, however, reached the conclusion that, in the exceptional cases to which he refers, it would be right in assessing the value of the house to disregard any increase in the market value above the pre-war value in so far as it could only be realised by a sale with vacant possession. The assessment so made would be subject to review if the house were sold or let within a reasonable period of, say, two years after the death. This treatment, which will apply to new cases and to cases which are still open, will be allowed where a near relative of the deceased was ordinarily resident with him at the date of death and satisfies the Inland Revenue Department that he or she intends to remain in the house and has no other place of residence available. [18th May.

LAND CHARGES ACT, 1925

OFFICIAL SEARCHES.

The Chief Land Registrar announces that owing to the heavy increase in the number of applications for Official Searches now being received in the Land Charges Department, it appears probable that with the approach of the June quarter day the number of applications will be so large as to cause a delay, possibly of several days, in the issue of certificates.

Solicitors are reminded that under Section 4 (2) of the Law of Property (Amendment) Act, 1926, as varied by Rule 1 (2) of the Land Charges Rules, 1940, a purchaser who has obtained a certificate of Official Search is entitled to protection against any entry which is made in the Land Charges Register after the date of the certificate and before the completion of the purchase, and is not made pursuant to a priority notice registered before the certificate is issued, if the purchase is completed before the expiration of 14 days after the date of the certificate.

To avoid the inconvenience of having to postpone completions, solicitors are urged to take advantage of the above provision by forwarding their application at least seven days before the date fixed for completion.

17*th May*, 1944.

The Lord Chief Justice, Lord Caldecote, preached at West Ham Parish Church on Sunday last, in "Religion and Life" Week, organised by the Anglican and Free Churches of East Ham and West Ham. His brother, the Bishop of Barking, Dr. Inskip, preached in the morning.

Notes of Cases.

KING'S BENCH DIVISION.

Oakes *v.* **Minister of War Transport.**

Singleton, J. 17th March, 1944.

Negligence—Statutory authority to do work on land—Construction of tank trap—No negligence in construction or maintenance—Distinction between statutory authority to do works for benefit of persons or a section of the community and authority to do works for public safety—Authorisation of risk in latter case—Defence (General) Regulations, 1939 (*No.* 927), *reg.* 51.

Action for damages for personal injuries arising out of an alleged continuing nuisance and/or negligence of the defendant, his servant or agents, in inserting or maintaining a tank trap in a pavement in a manner dangerous to users of the road, whereby the plaintiff caught her foot in the tank trap and fell to the ground and was injured.

The tank trap was constructed under reg. 50 (1) of the Defence (General) Regulations, 1939, authorising a competent authority, and subject to instructions, any member of H.M. Forces to do any work on any land. The regulation (para. 4) provided that the doing of work on land meant "the doing of any work on, over or below the surface of the land . . . the making of any erection or excavation, the placing of anything, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of any thing on, over or below that surface." The defendant was a competent authority under regs. 49 and 50. At the road and footpath in question there were about thirty-six holes, in each of which was a box containing in its centre a cavity for receiving a V-shaped rail. Each hole was covered with a metal plate flush with the concrete of the hole and sitting inside the concreted part. A clearance of about $\frac{1}{8}$ inch on each side of the plate allowed it to be easily removed, for the purpose of inserting the V-shaped rail. There was no evidence as to when or by whom the plate had been moved, but shortly before the accident it had in fact been moved, and it projected, owing to some dirt getting under one side.

SINGLETON, J., said that there was no negligence in the construction or maintenance of the road block, and even if there was negligence, there was no liability in law on the Minister. His lordship referred to *Fox* v. *Newcastle-upon-Tyne Corporation* (1941), 165 L.T. Rep. 90; *Great Central Railway Co.* v. *Hewlett* [1916] 2 A.C. 511 (*per* Lord Parker, at p. 519); *Managers of the Metropolitan Asylum District* v. *Hill* (1881), 6 A.C. 193 (*per* Lord Watson, at p. 213); *Geddis* v. *Bann Reservoir Proprietors* (1878), 3 A.C. 430, and said that what was being considered in those cases was the giving of powers to an individual or a body of persons to do a particular thing for their own benefit or for the benefit of a section of the community. In the present case what was being considered was authority to take steps to promote the public safety; in other words, to secure defence for the country against invasion. In such cases it had to be remembered that it might be necessary to do works of a character which were bound to result in some risk to someone. The action would be dismissed.

COUNSEL: *Ogilvie Jones; N. R. Fox-Andrews.*

SOLICITORS: *Cliftons; The Treasury Solicitor.*

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

COURT OF CRIMINAL APPEAL.

R. *v* **Jacobs, Carr and Fairhurst.**

Humphreys, Stable and Cassels, JJ. 13th March, 1944.

Criminal law—Conspiracy—Selling at excessive prices—Prices of Goods Act, 1939 (2 *&* 3 *Geo.* 6, *c.* 118), *ss.* 1, 10 *and* 15—*Goods and Services* (*Price Control*) *Act,* 1941 (4 *&* 5 *Geo.* 6, *c.* 31), *s.* 4—*Price-Controlled Goods* (*Restriction of Resale*) (*No.* 2) *Order,* 1942 (*No.* 958).

Appeal, on the ground of misdirection, from a conviction at Liverpool Assizes.

The first two appellants, Jacobs and Carr, were directors of a company owning chemists' shops in Liverpool and the third appellant, Fairhurst, was buyer to the company. They had bought razor blades from a man named Mulholland at a price in excess of the controlled price. At the close of the case for the prosecution a submission was made that the accused could not be convicted of aiding and abetting Mulholland (who pleaded guilty) in selling at a price in excess of the maximum permitted price, or of conspiring with M to resell price-regulated goods at a price in excess of the permitted price contrary to s. 1 of the Prices of Goods Act, 1939, and the Price-Controlled Goods (Restriction of Resale) (No. 2) Order, 1942, respectively, unless it was shown that the appellants knew that the price they were paying was in excess of the permitted price. It was argued that s. 10 (5) of the 1939 Act, excluding from the right to avoid under that section a transaction contravening the Act persons aiding and abetting the contravention, showed that there was an onus on the prosecution to prove knowledge of the price control. Reliance was also placed on ss. 10 and 15 of the 1939 Act. Wrottesley, J., had directed the jury that it was not necessary to prove that every member of the conspiracy knew that the price in question was the wrong one.

HUMPHREYS, J., delivering the judgment of the court, said that s. 15 did not carry the matter any further, as it was directed to the rights of third parties. Count 1 charged a common law conspiracy and the answer appeared to be that the appellants did not know the terms of the orders regulating the prices of goods in which they dealt. But *ignorantia juris neminem excusat* and the court found nothing in the statute indicating an intention to override the common law. The appeals would be dismissed.

COUNSEL: *John Flowers*, K.C., and *A. E. Baucher; Neville J. Laski*, K.C., and *A. E. Baucher; J. C. Jolly*, K.C., and *R. H. Blundell.*

SOLICITORS: *S. B. Levin*, Liverpool; *Ernest B. Kendall & Rigby*, Liverpool; *Director of Public Prosecutions.*

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]